TL.6554-02

HRW/Asia Decol Comm Statement

HUMAN RIGHTS IN EAST TIMOR

STATEMENT OF HUMAN RIGHTS WATCH/ASIA

TO THE DECOLONIZATION COMMITTEE OF THE UNITED NATIONS

July 14, 1994

Thank you, Mr. Chairman, for the opportunity to address this committee. As you know, Human Rights Watch/Asia, formerly Asia Watch, takes no position on the political status of East Timor, but it believes that full information on the human rights situation there must inform the committee's deliberations and discussions on the issue of decolonization.

East Timor is neither a Rwanda nor a Bosnia. It is not a place where massive carnage is taking place nor does it have concentration camps with emaciated prisoners. It is a place, however, where arbitrary detention and torture are routine, and where basic freedoms of expression, association and assembly are non-existent. Disappearances and politically-motivated killings have become relatively rare, but when cases are reported, controls on information and access to the territory are such that it is virtually impossible, even for Indonesian non-governmental organizations, to conduct investigations that would meet international standards for impartiality and thoroughness. The Indonesian Human Rights Commission, which for all its many flaws, has at least been a useful sounding board for complaints from the Indonesian public, had not, as of June 1994, visited East Timor or looked into any of the many reported cases of human rights violations there.

The Indonesian government has taken some steps for which it deserves credit. We welcome, for example, the visit to East Timor just concluded of Mr. Bacre Waly N'Daiye, a distinguished Senegalese lawyer who is currently Special Rapporteur on Summary and Arbitrary Executions for the United Nations Commission on Human Rights. At the same time, however, we note that East Timorese sources tell us repeatedly of the extensive security preparations taken by the Indonesian military in advance of high-profile visits of foreigners to East Timor. These preparations often involve the rounding up of potential "trouble-makers" -- as we understand happened before Mr N'Daiye's visit; warnings to residents in areas the group is likely to visit; and booking by officials of most of the rooms in either of the two hotels in Dili where the visitor is likely to stay.

On June 30, the Indonesian government, through the intercession of the International Committee of the Red Cross (ICRC) also allowed the family of resistance leader Xanana Gusmao to visit him in Cipinang Prison, Jakarta. It was the first time in almost twenty years that Gusmao was able to see his wife, Emilia, and their two children, all residents of Melbourne, Australia. The humanitarian gesture was welcome -- but it came after Gusmao had been in prolonged solitary confinement in Cipinang, without access to visitors or newspapers, allegedly for smuggling out letters to supporters. The United Nations Standard Minimum Rules for the Treatment of Prisoners, in Article 37, state that prisoners should be allowed "under necessary supervision" to communicate with family and friends and to be kept informed regularly of news.

In this connection, we regret the decision of the Indonesian government to move six East Timorese sentenced in connection with events in October and November 1991 from Dili to Semarang, Central Java, where they will have no access whatsoever to friends and family. The transfer of prisoners, including Gregorio da Cunha Saldanha, Francisco Miranda Branco and Jacinto dos Neves Raimundo Alves, all sentenced in connection with the peaceful demonstration on November 12, 1991 on which Indonesian troops opened fire, took place on June 9, 1994.

Finally, we welcome the decision of the Indonesian government to allow seven East Timorese students who had sought asylum at embassies in Jakarta to leave for Lisbon last December under ICRC auspices.

These positive steps notwithstanding, the human rights situation in East Timor continues to be grim.

Disappearances

As we noted above, new cases of disappearances are rare. But there are hundreds of outstanding, unresolved cases. No progress has been made on accounting for those who remain missing in the aftermath of the November 1991 Dili massacre, for example, or, indeed, for more recent incidents.

In May 1994, relatives of Gaspar Luis Xavier Carlos in Dili revealed to a visitor that Gaspar remained missing after his arrest by military intelligence (Satuan Gerakan Intelejen or SGI) on September 3, 1992, just prior to the summit meeting in Jakarta of the Non-Aligned Movement (NAM). Aged 30 at the time of his disappearance, Gaspar was an employee in Dili of a national bank, Bank Bumi Daya. His family was told by the military that he was arrested in connections with security measures being taken in connection with the Jakarta summit. Gaspar, other sources said, had been planning to go to Jakarta with a few others to present information to NAM delegates about the situation in East Timor, but security officers became aware of their plans. In addition to Gaspar, a man named Malacu is reported to have been arrested and severely tortured; his fate is not known. Gaspar was taken to the SGI office in Colmera, Dili and from there a few days later to the Comarca prison in Balide, Dili. Shortly thereafter, he was taken out of the prison at night and has not been seen since. The family has made repeated inquiries to the military in Dili without success, and recently sought help from Indonesia's National Commission on Human Rights. Gaspar's wife and two children remain in Dili. His employers, Bank Bumi Daya, fired him after his arrest, and the family has no regular source of income.

In its report to the United Nations Commission on Human Rights, the UN Working Group on Enforced or Involuntary Disappearances reported that of twenty disappearance cases from Indonesia and East Timor submitted by the Working Group to the Indonesian government for clarification, the government reported that five had returned home. "In the remaining 15 cases, the names of the persons contained in the Government's reply did not correspond to the names of the missing persons contained in the lists of the Working Group."

It should be noted that in its resolution 1993/97 in March 1993, the UN Commission on Human Rights urged the Government of Indonesia to invite the Special Rapporteur on the Question of Torture, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances. The Special Rapporteur on Summary Executions has just left East Timor, but no invitation has been extended to the Working Group on Arbitrary Detention or the Working Group on Disappearances.

Extrajudicial Executions

Several cases of summary executions have been reported to HRW/Asia since our last presentation to this committee, although because of lack of access, we have not been able to independently confirm the incidents. Even if the facts as stated could be verified, it is possible in the two cases described below that there were circumstances, not known to HRW/Asia, that could affect the characterization of these killings as extrajudicial executions. But it is important to recognize that East Timorese in Lautem reported these incidents as such to Indonesian human rights monitors in Jakarta, suggesting, at the very least, that a full investigation should be undertaken, with prosecution of those responsible should the executions be confirmed.

In the first case, in the hamlet of Assalaino, Lautem district, a farmer and father of four named Tito Teles, aged thirty-three, was reportedly killed by members of army battalion 611 on November 1, 1993 as he was leaving his home to go hunting. He had reportedly obtained a permit from security forces in the region to hunt in an area known as the "free zone", as he had on two other occasions. People in the village heard him calling his dog as he was moving toward the zone, but special forces hidden along the path from the village opened fire. When the dog returned alone to Tito's house, villagers questioned the security forces who claimed they had no knowledge of Tito's whereabouts. Only after Tito's body was discovered on November 2 did they acknowledge the shooting.

In the second case, a fifteen-year-old elementary school student named Ilario Rodrigues, son of Teofilo and Benefito Rodrigues of the hamlet of Foema-a, Souro village, Lautem, was shot and killed on July 30, 1993 by men described by villagers as army commandos as he was going into a nearby garden to cut down coconuts to sell. He was a student of State Elementary School No.6 in Souro. His body was immediately buried by those who shot him; it was exhumed the next day by his neighbors. It is not clear why he was killed.

Accountability

The Indonesian commander in East Timor, Colonel Johny Lumintang, has disciplined some Indonesian soldiers responsible for abuses; two soldiers were court-martialled for murder earlier this year, according to a July 5 Reuters dispatch, and two others have been detained after committing sacrilege in a Catholic church in Remexio by spitting out the sacrament during communion. The incident occurred on June 28, 1994. (Eleven villagers, it should be noted, were then detained for then attacking the soldiers.)

It would be a welcome development if soldiers were routinely held accountable for abuses in East Timor, and it will be important for the human rights community, both Indonesian and international, to monitor the prosecutions and punishments in the above cases. But until the climate of fear substantially changes in East Timor and people feel both free to register complaints against members of the armed forces and confident in the legal system in place there, many soldiers will continue to act with impunity.

Controls on Freedom of Expression

A single incident demonstrates the extent of restrictions freedom of expression in East Timor. From April 12 to 15, 1994, twenty-six foreign journalists were taken on an official visit to East Timor at the invitation of the Indonesian government. (Over eighteen years after Indonesia's annexation of East Timor, access to the territory remains restricted, and journalists must apply for special travel permits.) The day before they left, on April 14 at about 7:00 a.m., a small group of East Timorese held a pro-independence demonstration in front of the Mahkota Hotel in Dili where the journalists were staying.

The demonstration became the focus of most of their subsequent articles, to the Indonesian government's great indignation. On April 17, a military spokesman in Dili, Major L. Simbolon, accused the journalists of "defecting" from the official agenda and conducting an "investigation" rather than looking at "existing reality."

But it was the demonstrators who in fact represented East Timor's "existing reality." Following the demonstration, they were briefly arrested for questioning, then released. After the foreign reporters were safely out of East Timor, however, the real arrests took place. On May 1, Nuno Corvelo was picked up. On May 2, it was Rui Fernandes's turn. And on May 3, nine more young people were arrested: Pedro de Fatima; Rosalino dos Santos, twenty-two; Octavianus; Miguel de Deus, aged twenty; Marcus; Pantaleao Amaral; aged eighteen; Lucas dos Tilman: Anibal; and Isaac Soares, twenty-two. All are Dili residents.

A week after their arrest, their families had not been informed of their whereabouts and were too frightened to ask. At least six were, in fact, taken to the regional police command (Polwil) in Dili; the Indonesian government never acknowledged holding more than six.

The trials of three of the eleven began on June 16. At issue was not only the demonstration, but the fact that the young men had taken part in an "illegal meeting" on April 13 at Pedro de Fatima's home in Kuluhun, Dili, to discuss the display of pro-independence banners that the journalists would be able to see. According to international standards on human rights, the meeting was a peaceful exercise of freedom of assembly, just as the demonstration itself was a legitimate exercise of freedom of expression.

But the Dili court saw it differently. On June 24, Pantaleao Amaral, Isaac Soares and Miguel de Deus were sentenced to twenty months in prison after being found guilty of violating Article 154 of the Criminal Code, spreading hatred toward the government of Indonesia. On July 7, Rosalino dos Santos was given the same sentence for creating public disorder and inciting separatist sentiments. According to a UPI dispatch, Rosalino admitted in court that he was a member of Juvente das Estudantes de Timor Leste (East Timorese Students Organization), an association outlawed by the Indonesian government because of its alleged links to Fretilin. The defendants were not represented by legal counsel, and it is not known whether this acknowledgement was made under duress.

The lengths to which the Indonesian government went to try and prevent the Asia-Pacific Conference on East Timor (APCET) from taking place in Manila from May 31 to June 2 reflect its efforts to control freedom of expression not only inside Indonesia but beyond its own borders.

Access to East Timor by Human Rights Organizations

Despite the claims of Indonesian Foreign Minister in early May that he was inviting Amnesty International and Asia Watch (now Human Rights Watch/Asia) to visit East Timor, no human rights organizations have been given access since Asia Watch and the International Commission of Jurists were allowed to attend

selected sessions of the Xanana Gusmao trial in March 1993. Human Rights Watch/Asia was explicitly refused permission to visit East Timor in June 1994.

France Libertes, a human rights foundation headed by Mme. Danielle Mitterand, has also been refused access. One of the people invited to the Manila conference but subsequently denied a visa by the Philippines government (at Indonesia's request), Mme. Mitterand had asked the Indonesian government through private channels in September 1993 whether she and the Paris-based International League for Human Rights could visit East Timor; she was told that it was "not the right time" and to wait another six months. After six months, Frances Libertes made another request, this time not mentioning Mme. Mitterand's name. The request was turned down.

It is not only international human rights organizations that have difficulty getting to East Timor; some Indonesian human rights organizations do as well. In early May, a seminar on the topic of sustainable development and the environment was due to take place at the University of East Timor, co-sponsored by a number of Indonesian NGOs including members of a coalition called the Joint Committee for the Defense of the East Timorese (Komite Bersama Pembelaan Masyarakat Timor Timur.) The coalition includes some of Indonesia's most respected NGOs: the Legal Aid Institute (Yayaysan Lembaga Bantuan Hukum Indonesia); the Indonesian Council of Churches (Parpem Persekutuan Gereja-Gereja Indonesia or PGI); the Institute for Social Advocacy and Study (Lembaga Studi dan Advokasi Masyarakat or ELSAM); and the Catholic organization, LPPS Caritas Katolik. A week before the seminar was to take place, the military commander for the region that includes East Timor called the university rector and told him the conference would have to be postponed. When it eventually did take place, the Indonesian NGOs were not permitted to attend, nor was Florentino Sarmento of ETADEP, an East Timorese environmental NGO.

Conclusion

In short, Mr. Chairman, East Timor remains a troubled place where human rights abuses continue. Greater openness -- defined as freedom for East Timorese to gather in private houses without permits and to freely express their own opinions, unhampered access by foreign journalists, less control over foreign visitors, and access by international human rights organizations -- would almost certainly help prevent such abuses and ensure some form of redress for the victims. But if the last few months are any indication, the trend is not toward openness but the reverse. The closure on June 21 of three important news weeklies in Jakarta has implications for East Timor, because it suggests a desire to control information that the politically powerful find offensive. Restricting information prevents problems from being aired and solutions from being found on all fronts, not just human rights. For East Timor as well as Indonesia, that may prove very damaging.